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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/653,163
Filing Date: September 01, 2000
Appellant(s): MIKITANI ET AL.

Toshikatsu Imaizumi
For Appellant

SUPPLEMENTAL EXAMINER'S ANSWER

This is in response to the Administrative Remand to Examiner by the Board of

Patent Appeals and Interferences mailed on 06/09/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application: 1-4, 6, 8-13, 16-26

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of

rejection to be reviewed on appeal. Every ground of rejection set forth in the Office

action from which the appeal is taken (as modified by any advisory actions) is being

maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are

provided under the subheading "NEW GROUNDS OF REJECTION."

NEW GROUND(S) OF REJECTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 1, 10, 17 and 21 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

Claim 1 includes the following limitations invoking § 112, ¶ 6:

means for limiting the customers stored in the storing means in advance so as to
specify particular participants for a lottery;

means for uniquely allocating a reply electronic mail address to each of said
specified participants, so that said reply electronic mail addresses are different from
each other;

means for sending a first electronic mail to each of said participants, in which the
reply electronic mail address is affixed as a unique access key to each of said
participants;

means for recognizing an application for the lottery from each of said participants
by receiving a second electronic mail sent back to said reply electronic mail address.

Claims 10, 17, and 21 contain similar limitations.

These limitations invokes 35 USC § 112, ¶ 6 because it meets the 3-prong

analysis set forth in MPEP 2181 as it recites the phrase "means for" or "step for" (or

appellant identifies the limitation as a means (or step) plus function limitation in the

appeal brief) and the phrase is modified by functional language and it is not modified by

sufficient structure, material, or acts for performing the recited function. Also see *Altiris*

Inc. v. Semantec Corp., 318 F.3d 1363, 1375 (Fed. Cir. 2003). 35 USC § 112, ¶ 6,

requires such claim to be construed to cover the corresponding structure, material, or

acts described in the specification and equivalents thereof. "If one employs means plus

function language in a claim, one must set forth in the specification an adequate

disclosure showing what is meant by that language. If an applicant fails to set forth an

adequate disclosure, the applicant has in effect failed to particularly point out and

distinctly claim the invention as required by the second paragraph of section § 112." *In*

re Donaldson Co., 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.).

For a computer-implemented means-plus-function claim limitation that invokes 35 USC

§ 112, ¶ 6, the corresponding structure is required to be more than simply a general

purpose computer. *Aristocrat Technologies, Inc. v. International Game Technology*,

521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding

structure for a computer-implemented function must include the algorithm as well as the

general purpose computer. *WMS Gaming,Inc. v. International Game Technology*, 184

F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least

disclose the algorithm that transforms the general purpose microprocessor to a special

purpose computer programmed to perform the claimed function. *Aristocrat*, 521 F.3d at

1338, 86 USPQ2d at 1242.

Portions of the specification and drawings for the corresponding structure,

material or acts:

Specification 5-6, 11-12.

Claim 1 includes limitations for "means for limiting……lottery"; "means for

uniquely allocating…..other"; "means for sending…..participants"; and "means for

recognizing……address" and the Specification does not set forth any structures,

software instructions, or algorithms for performing each respective function. Claim 1

appears to be computer based and discusses electronic mail. As such, Appellants have

failed to adequately describe sufficient structure for performing the functions claimed for

claim 1 as well as for claims 10, 17, and 21 which contain similar limitations.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in

the Appendix to the appellant's brief.

(8) Evidence Relied Upon

US 2002/0161589 A1	Strandberg	Oct. 31, 2002
US 5,983,196	Wendkos	Nov. 9, 1999
US 6,024,641	Sarno	Feb. 15, 2000
US 6,193,605 B1	Libby et al.	Feb. 27, 2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

NEW GROUND(S) OF REJECTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

Claims 1, 10, 17 and 21 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

Claim 1 includes the following limitations invoking § 112, ¶ 6:

means for limiting the customers stored in the storing means in advance so as to
specify particular participants for a lottery;

means for uniquely allocating a reply electronic mail address to each of said
specified participants, so that said reply electronic mail addresses are different from
each other;

means for sending a first electronic mail to each of said participants, in which the
reply electronic mail address is affixed as a unique access key to each of said
participants;

means for recognizing an application for the lottery from each of said participants
by receiving a second electronic mail sent back to said reply electronic mail address.

Claims 10, 17, and 21 contain similar limitations.

These limitations invokes 35 USC § 112, ¶ 6 because it meets the 3-prong

analysis set forth in MPEP 2181 as it recites the phrase "means for" or "step for" (or

appellant identifies the limitation as a means (or step) plus function limitation in the

appeal brief) and the phrase is modified by functional language and it is not modified by sufficient structure, material, or acts for performing the recited function. Also see *Altiris Inc. v. Semantec Corp.*, 318 F.3d 1363, 1375 (Fed. Cir. 2003). 35 USC § 112, ¶ 6, requires such claim to be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof. "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section § 112." *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.). For a computer-implemented means-plus-function claim limitation that invokes 35 USC § 112, ¶ 6, the corresponding structure is required to be more than simply a general purpose computer. *Aristocrat Technologies, Inc. v. International Game Technology*, 521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding structure for a computer-implemented function must include the algorithm as well as the general purpose computer. *WMS Gaming,Inc. v. International Game Technology*, 184 F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the claimed function. *Aristocrat*, 521 F.3d at 1338, 86 USPQ2d at 1242.

Portions of the specification and drawings for the corresponding structure, material or acts:

Specification 5-6, 11-12.

Claim 1 includes limitations for "means for limiting……lottery"; "means for

uniquely allocating…..other"; "means for sending…..participants"; and "means for

recognizing……address" and the Specification does not set forth any structures,

software instructions, or algorithms for performing each respective function. Claim 1

appears to be computer based and discusses electronic mail. As such, Appellants have

failed to adequately describe sufficient structure for performing the functions claimed for

claim 1 as well as for claims 10, 17, and 21 which contain similar limitations.

END OF NEW GROUND(S) OF REJECTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for
all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section
> 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the
> subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary
> skill in the art to which sad subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

Claims 1-4, 6, 8-13 and 16-22 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Strandberg (US 2002/0161589) in view of Wendkos (US

5,983,196).

Independent Claims

Claims 1 and 16, Strandberg teaches a method and system for utilizing a

computer network for conducting telemarketing campaign, comprising:

recording means (database 200) for recording information concerning customers,

each of which has an electronic mail address [0018];

allocating uniquely an electronic mail address to each of participants [0018]; [0019];

sending by a host a first electronic mail in which an electronic mail address is affixed as a unique access key to each one of a plurality of specified participants [0019];

recognizing said specified participants for a lottery by receiving a second electronic mail sent back to said electronic mail address from each of said participants [0020]; [0023].

Strandberg does not specifically teach that *said telemarketing campaign includes conducting a lottery; that said system includes means for limiting the customers (stored in the database) in advance so as to specify participants for the lottery; and notifying each one of the participants of their result of said lottery.*

Wendkos teaches a method and system for conducting a lottery via the Internet, wherein participants are notified (are send messages to) of their result in said lottery, and wherein said system includes means for limiting the customers so as to specify a main group for performing the lottery (The function of the smart win process is to make awards to certain participant in a controlled manner) (C. 10, L. 56-67; C. 11, L. 15 – C. 12, L. 8). Furthermore, Wendkos explicitly teaches identifying a specific group of customers eligible for the lottery from the database of all customers, thereby disclosing the "advance" feature (C. 10, L. 35-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg to include that said telemarketing campaign includes *conducting a lottery,* as disclosed in Wendkos, because it would advantageously stimulate interest of the audience to the campaign, thereby increase participation and potentially increase revenue. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg and Wendkos to include that said system includes *means for limiting the customers in advance so as to specify a main group for performing the lottery,* as disclosed in Wendkos, because it would advantageously allow achieving specific business objectives, including keeping award expenditures within budget and not to waste resources (Wendkos; C. 11, L. 28-30; C. 10, L. 51). And it would have been obvious to

one having ordinary skill in the art at the time the invention was made to modify
Strandberg and Wendkos to include *notifying each one of the participants of their result
of said lottery*, as disclosed in Wendkos, because it would advantageously provide
convenience for the participants of not inquiring about the results by themselves.

Claim 10. Strandberg teaches a system for utilizing a computer network for
conducting telemarketing campaign, comprising:

storing means for storing information of customers [0018];

means for uniquely allocating a keyword to be entered in a page of a URL, to each
of participants [0018]; [0019];

means for sending an electronic mail in which the keyword is affixed as a unique access
key, to each of the participants [0019];

means for recognizing an application from each of said participants when said
participant accesses the page of said URL and enters the keyword [0020]; [0023].

Strandberg does not specifically teach that said telemarketing campaign includes
conducting a lottery; that said system includes means for limiting the customers *in
advance* so as to specify a main group for performing the lottery; and notifying each one
of the participants of their result of said lottery.

Wendkos teaches a method and system for conducting a lottery via the Internet,
wherein participants are notified (are send messages to) of their result in said lottery,
and wherein said system includes means for limiting the customers so as to specify a
main group for performing the lottery (The function of the smart win process is to make
awards to certain participant in a controlled manner) (C. 10, L. 56-67; C. 11, L. 15 – C.
12, L. 8). Furthermore, Wendkos explicitly teaches identifying a specific group of
customers eligible for the lottery from the database of all customers, thereby disclosing
the "advance" feature (C. 10, L. 35-53).

It would have been obvious to one having ordinary skill in the art at the time the
invention was made to modify Strandberg to include that said telemarketing campaign
includes *conducting a lottery*, as disclosed in Wendkos, because it would

advantageously stimulate interest of the audience to the campaign, thereby increase
participation and potentially increase revenue. It would have been obvious to one
having ordinary skill in the art at the time the invention was made to modify Strandberg
and Wendkos to include that said system includes *means for limiting the customers in*
advance so as to specify a main group for performing the lottery, as disclosed in
Wendkos, because it would advantageously allow achieving specific business
objectives, including keeping award expenditures within budget and not to waste
resources (Wendkos; C. 11, L. 28-30; C. 10, L. 51). And it would have been obvious to
one having ordinary skill in the art at the time the invention was made to modify
Strandberg and Wendkos to include *notifying each one of the participants of their result*
of said lottery, as disclosed in Wendkos, because it would advantageously provide
convenience for the participants of not inquiring about the results by themselves.

Claim 17. Strandberg teaches a system for utilizing a computer network for
conducting telemarketing campaign, comprising:

storing means for storing information of customers [0018];

means for uniquely allocating a URL to each of participants [0018]; [0019]; means
for sending an electronic mail in which the URL is affixed as a unique access key, to
each of the participants [0019];

means for recognizing an application from each of said participants when said
participant accesses the page of said URL via e-mail [0020]; [0023].

Strandberg does not specifically teach that said telemarketing campaign includes
conducting a lottery; that said system includes means for limiting the customers in
advance so as to specify a main group for performing the lottery; and notifying each one
of the participants of their result of said lottery.

Wendkos teaches a method and system for conducting a lottery via the Internet,
wherein participants are notified (are send messages to) of their result in said lottery,
and wherein said system includes means for limiting the customers so as to specify a
main group for performing the lottery (The function of the smart win process is to make
awards to certain participant in a controlled manner) (C. 10, L. 56-67; C. 11, L. 15 – C.

12, L. 8). Furthermore, Wendkos explicitly teaches identifying a specific group of customers eligible for the lottery from the database of all customers, thereby disclosing the "advance" feature (C. 10, L. 35-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg to include that said telemarketing campaign includes *conducting a lottery*, as disclosed in Wendkos, because it would advantageously stimulate interest of the audience to the campaign, thereby increase participation and potentially increase revenue. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg and Wendkos to include that said system includes *means for limiting the customers so as to specify a main group for performing the lottery*, as disclosed in Wendkos, because it would advantageously allow achieving specific business objectives, including keeping award expenditures within budget and not to waste resources (Wendkos; C. 11, L. 28-30; C. 10, L. 51). And it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg and Wendkos to include *notifying each one of the participants of their result of said lottery*, as disclosed in Wendkos, because it would advantageously provide convenience for the participants of not inquiring about the results by themselves.

Claims 19, 20 and 21. Strandberg teaches a method and system for utilizing a computer network for conducting telemarketing campaign, comprising:
      storing information of customers in a database [0018];
      specifying participants for the campaign from a database[0018];
      providing at least one electronic mail address [0018];
      allocating uniquely an electronic mail address to each of participants [0018];
  [0019];
      sending by a host a first electronic mail in which an electronic mail address is affixed as a unique access key to each one of a plurality of specified participants [0019];

recognizing said specified participants for a lottery by receiving a second electronic mail sent back to said electronic mail address from each of said participants [0020]; [0023].

Strandberg does not specifically teach that said telemarketing campaign includes conducting a lottery; that said system includes means for limiting the customers in advance so as to specify a main group for performing the lottery; and notifying each one of the participants of their result of said lottery.

Wendkos teaches a method and system for conducting a lottery via the Internet, wherein participants are notified (are send messages to) of their result in said lottery, and wherein said system includes means for limiting the customers so as to specify a main group for performing the lottery (The function of the smart win process is to make awards to certain participant in a controlled manner) (C. 10, L. 56-67; C. 11, L. 15 – C. 12, L. 8). Furthermore, Wendkos explicitly teaches identifying a specific group of customers eligible for the lottery from the database of all customers, thereby disclosing the "advance" feature (C. 10, L. 35-53).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg to include that said telemarketing campaign includes *conducting a lottery,* as disclosed in Wendkos, because it would advantageously stimulate interest of the audience to the campaign, thereby increase participation and potentially increase revenue. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg and Wendkos to include that said system includes *means for limiting the customers so as to specify a main group for performing the lottery,* as disclosed in Wendkos, because it would advantageously allow achieving specific business objectives, including keeping award expenditures within budget and not to waste resources (Wendkos; C. 11, L. 28-30; C. 10, L. 51). And it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg and Wendkos to include *notifying each one of the participants of their result of said lottery,* as disclosed in Wendkos, because it would advantageously provide convenience for the participants of not inquiring about the results by themselves.

Dependent Claims

Claims 2-4, 6, 11-13, 18 and 22, see reasoning applied to claims 1, 10, 16, 17, 19 and 20.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strandberg in view of Wendkos and further in view of Sarno (US 6,024,641).

Claim 8. Strandberg in view of Wendkos teach all the limitations of claim 8, except specifically teaching that the URL of the page informing of said result is separated into one for a win of a prize and the other for a failure in winning the prize.

Sarno teaches a system for on-line lottery gaming, including means for registering participants for said lottery via a Web site, means for conducting said lottery and means for notifying said participants of a result of said on-line lottery, wherein said means for registration includes means for entering an electronic address of a participant (C. 7, L. 23-26) and wherein said means for notification includes means for sending said notification via an electronic mail (C. 6, L. 14-16), and further wherein the URL of the page informing said result is separated into one for a winner of a prize and the other for a loser in winning the prize (Figs. 3B, 6; C. 6, L. 14 – C. 7, L. 32).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg in view of Wendkos to include that the URL of the page informing said result is separated into one for a winner of a prize and the other for a loser in winning the prize, as disclosed in Samo, because it would advantageously allow to simplify reading of the lottery results.

Claim 9, Sarno teaches said system and method wherein by entering said access keyword and a mail address to which said access keyword is sent into the page informing said result, a page for the winner of the prize and a page of the loser in winning the prize can be accessed (C. 6, L. 14 – C. 7, L. 32). The motivation to combine references would be to simplify the access to the results of the lottery.

Claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strandberg in view of Wendkos and further in view of Libby et al. (US 6,193,605).

Claims 23-26, Strandberg in view of Wendkos teaches all the limitations of claims 23-26, except specifically teaching that that said means for conducting the lottery generates random number on the basis of the number of said participants, thereby obtaining the results of the lottery.

Libby et al. teaches a lottery system, wherein the identities of the grand prize participants may be stored in, for example, a grand prize data table (step 318) and the winner of the grand prize may be randomly selected by the random number generator 38 (step 320). Once the winner of the grand prize is selected, the name of the winner is broadcasted after the race (step 322) (C. 7, L. 62 – C. 8, L. 3).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Strandberg in view of Wendkos to include that that said means for conducting the lottery generates random number on the basis of the number of said participants, thereby obtaining the results of the lottery, as disclosed in Libby et al, because it would advantageously facilitates the conducting of said lottery.

(10) Response to Argument

(10.01)

(a) Claims 1-4, 6, 8, 9, 12 and 13
Appeal Brief (AB) p. 12

Applicant argues that Wendkos fails to teach "means for limiting the customers stored in the stored means in advance so as to specify particular participants for a lottery", and "On the other hand, Wendkos does not limit the customer before the lottery is performed".

In response to this argument it is noted that Wendkos explicitly discloses this feature. Specifically, Wendkos teaches that only selected participants, who have made certain amount of purchases, are selected to participate in promotion/lottery (C. 10, L. 35-53):

> A particularly powerful use of this capability is found under the circumstance when a sponsor of a promotional program wishes to identify his "good customers." A good customer might be defined as a customer who has made three purchases of a particular type in the last thirty days. By invoking the name and address capture routine of FIGS. 11A and 11B, only for those participants who have registered certificates for the three purchases in question within thirty days, the sponsor of the program can receive a list of names and addresses which contain only those customers who have made such purchases. In the prior art, a sponsor of a program was limited to either capturing everyone's name and address, or no one's. This permits the name and address capture to be customized to the needs of the particular sponsor. As a result, since the cost of direct mailings is very high, the sponsor can customize a mailing to only his best purchasers, however the sponsor may define that term. As a result, a sponsor will not waste resources in conducting a direct mailing to customers who might not be responsive to his entreaties.

AB p. 13

Applicant argues that "(ii) Examiner's error in determining that Wendkos explicitly teaches identifying a specific group of customers".

In response to this argument the examiner maintains that Wendkos discloses this feature (C. 10, L. 35-53):

> A particularly powerful use of this capability is found under the circumstance when a sponsor of a promotional program wishes to identify his "good customers." A good customer might be defined as a customer who has made three purchases of a particular type in the last thirty days. By invoking the name and address capture routine of FIGS. 11A and 11B, only for those participants who have registered certificates for the three purchases in question within thirty days, the sponsor of the program can receive a list of names and addresses which contain only those customers who have made such purchases.

As one can see from this paragraph, the sponsor can identify those participants who have fulfilled certain requirements.

AB p. 14.

Applicant argues that "However, although Wendkos teaches that customer information may be used for selection of customer for direct mailings, it does NOT teach that participants are selected from the customer information."

In response to this argument the examiner points out that information collected about the customers in Wendkos' system is utilized for to promotional program/lottery (Figs. 11B, 12; C. 9, L. 54-58; C. 10, L. 35-39; C. 11, L. 1-5). Based on the customer information, the participants are selected; the promotion messages are played; and awards are distributed in a controlled manner. Wendkos teaches, that "Each user who interacts with the interactive platform essentially engages in a lottery with a controlled probability of an award..." (C. 5, L. 1-5).

Wendkos further teaches, that, in the end, participant information is used to identify and award the winners (C. 10, L. 56-67):

> As with the other processes, the smart win process begins with a call
> from the call flow table (1200) passing state and/or participant information.
> In this case, it may also pass certificate information such as a certificate ID
> (1210). With certificate ID information, certificate information from the

certificate data base may be retrieved. A particular award algorithm is selected (1220) based on certificate information and/or participant information as discussed more hereinafter. If the participant is a winner, the award amount is credited (1230) and the process returns. The function of the smart win process is to make awards to certain participant in a controlled manner.

<u>AB p. 15</u>

(2) Applicant argues that "Examiner's error in determining that Strandberg teaches a ... system... comprising:...allocating uniquely a reply electronic mail address to each of participants".

In response to this argument the examiner points out that the main purpose of allocating uniquely said reply electronic mail addresses to each of said participant is that said reply electronic mail addresses are different from each other (claim language), or that each participant can be recognized. Strandberg teaches allocating a unique ID (to be inserted into participants' reply e-mail) to each of the participants so, that each participant can be recognized by this ID in his/her reply e-mail [0019]. Accordingly, so as the purpose of allocating the unique ID in Strandberg's system is the same as allocating the unique e-mail address in the applicant's invention, the examiner maintains that teaching of Strandberg is equivalent to the inventive feature in question.

(10.02)

<u>(b) Claims 10, 11 and 18</u>

<u>AB p. 16</u>

1.   **Applicant argues** that "Examiner's error in determining that Wendkos teaches means for limiting the customers so as to specify a main group for performing the lottery...".

In response to this argument it is noted that this argument essentially repeats the arguments presented above; therefore, the responses presented by the examiner above are equally applicable to the remaining applicant's arguments (See Wendkos, C. 10, L. 35-53:

> A particularly powerful use of this capability is found under the
> circumstance when a sponsor of a promotional program <u>wishes to identify his</u>
> <u>"good customers." A good customer might be defined as a customer who has made</u>
> <u>three purchases of a particular type in the last thirty days. By invoking the</u>
> <u>name and address capture routine of FIGS. 11A and 11B, only for those</u>
> <u>participants who have registered certificates for the three purchases in</u>
> <u>question within thirty days, the sponsor of the program can receive a list of</u>
> <u>names and addresses which contain only those customers who have made such</u>
> <u>purchases.)</u>

2.   **Applicant argues** that "Examiner's error in determining that Strandberg teaches means for uniquely allocating a keyword to be entered in a page of a URL, to each of participants.

In response to this argument it is noted that this argument essentially repeats the arguments presented above in respect to "allocating uniquely a reply electronic mail

address" feature; therefore, the responses presented by the examiner above are equally applicable to the remaining applicant's arguments.

(10.03)

Claims 16, 17, 19, 20, and 21-26

AB pp. 15-19

The remaining applicant's arguments essentially repeat the arguments presented above; therefore, the responses presented by the examiner above are equally applicable to the remaining applicant's arguments.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section **(9)** above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment,

affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

/Igor N. Borissov/
Primary Examiner, Art Unit 3628

A Technology Center Director or designee must personally approve the

new ground(s) of rejection set forth in section (9) above by signing below:

/Wynn W. Coggins/

Director, TC 3600

Conferees:

John W. Hayes, SPE, 3628

/JOHN W HAYES/
Supervisory Patent Examiner, Art Unit 3628

Vincent A. Millin/vm/   ***
Appeals Practice Specialist
Technology Center 3600